

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Caitlin Schwartz	Team: Squad #11	CCRB Case #: 201405252	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 05/23/2014 6:15 PM	Location of Incident: Vernon Avenue and Tompkins Avenue; 79th Precinct station house	Precinct: 79	18 Mo. SOL 11/23/2015	EO SOL 11/23/2015	
Date/Time CV Reported Sat, 05/24/2014 12:35 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 05/29/2014 3:46 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Terrence Howard	10504	950599	079 PCT
2. POM Eduardo Cornejo	13722	936390	079 PCT
3. POM Adam Dumelle	07474	948001	079 PCT
4. Officers			079 PCT
5. An officer			079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Paul Scocca	03616	935713	INT CIS

Officer(s)	Allegation	Investigator Recommendation
A.POM Adam Dumelle	Abuse: At Vernon Avenue and Tompkins Avenue in Brooklyn, PO Adam Dumelle stopped § 87(2)(b)	
B.POM Adam Dumelle	Force: En route to and at the 79th Precinct stationhouse, PO Adam Dumelle used physical force against § 87(2)(b)	
C.POM Eduardo Cornejo	Force: At the 79th Precinct station house, PO Eduardo Cornejo used physical force against § 87(2)(b)	
D.POM Terrence Howard	Force: At the 79th Precinct station house, PO Terrence Howard used physical force against § 87(2)(b)	
E. An officer	Discourtesy: At the 79th Precinct stationhouse, an officer spoke rudely to § 87(2)(b)	
F. An officer	Abuse: At the 79th Precinct stationhouse, an officer threatened § 87(2)(b) with the use of force.	
G. Officers	Force: At the 79th Precinct station house, officers used physical force against § 87(2)(b)	
H.POM Terrence Howard	Abuse: At the 79th Precinct station house, PO Terrence Howard strip-searched § 87(2)(b)	

Case Summary

May 23, 2014 at 6:15 p.m. § 87(2)(b) who was with his friend § 87(2)(b) at Vernon Avenue and Tompkins Avenue in Brooklyn, was observed with marijuana and arrested by PO Adam Dumelle of the 79th Precinct, who was assisted by PO Eduardo Cornejo and PO Terrance Howard, also of the 79th Precinct. § 87(2)(b) alleged that during his transport, he was elbowed and punched on the left side of his face by PO Dumelle (**Allegation A**). After their arrival at the stationhouse, PO Dumelle escorted § 87(2)(b) to the cells, and they engaged in a physical altercation. § 87(2)(b) alleged that PO Dumelle punched him once in the right side of the face (**Allegation A cont'd**). PO Cornejo, PO Howard, and other officers entered the cell and also allegedly punched § 87(2)(b). § 87(2)(b) allegedly told § 87(2)(b) “If you fuck with us, we’re gonna kill you, (**Allegation D** and **Allegation E**),” and an unidentified officer allegedly kned him in the face (**Allegation B, C, and G**). § 87(2)(b) alleged that officers pulled down his underwear, and PO Howard spread his buttocks apart (**Allegation J**). § 87(2)(b) was later taken to § 87(2)(b) for treatment for his injuries, including a fracture to his right orbital bone.

Mediation, Civil and Criminal Histories

This case was unsuitable for mediation due to § 87(2)(b)'s arrest. On § 87(2)(b), § 87(2)(b) filed a Notice of Claim, stating that police officers punched him in the face, fracturing his cheek bone as a result and he suffered psychological and physical trauma as a result of his malicious prosecution, false arrest, false imprisonment, assault, battery, intentional infliction of emotional distress, harassment, property damage, negligence, negligent hiring, discrimination, trespass and excessive force. He additionally claimed that he suffered violations of his federal and state constitutional rights, humiliation, embarrassment, psychological and physical injuries causing him to incur additional expenses. § 87(2)(b) sought five million dollars as redress for his claim (encl. 2E-F). As of June 1, 2015, Cherise Chery at the New York City Law Department notified the undersigned investigator that records indicated that a 50H hearing was scheduled for § 87(2)(b), but there was no pertinent transcript available to determine if it had been held (encl. 16B). [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b)

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§ 87(2)(b)

Civilian and Officer CCRB Histories

- This complaint is § 87(2)(b)'s first with the CCRB (encl. 1K).
- PO Dumelle has been a member of the NYPD for six years. In CCRB case number 201011266, frisk and search allegations were substantiated against PO Dumelle. The Board recommended Command Discipline for both of these allegations. The NYPD dispositions for both were instructions, and a penalty of instructions was imposed for the frisk. Among the 22 allegations against PO Dumelle, eight were physical force allegations (encl. 1G-H).
- PO Cornejo has been a member of the NYPD for ten years (encl. 1I).
- PO Howard has been a member of the NYPD for three years. In CCRB case number 201304352, a frisk allegation was substantiated against PO Howard. The Board recommended Command Discipline. The NYPD disposition was instructions, but the NYPD has not yet imposed any penalty. In CCRB case number 201310961, a frisk

allegation was substantiated against PO Howard, for which the Board recommended Formalized Training. The NYPD disposition and penalty remain pending. In CCRB case number 201401016, a strip-search allegation was substantiated against PO Howard, for which the Board recommended Formalized Training. The NYPD disposition and penalty remain pending (encl. 1J).

Findings and Recommendations

Allegations not pleaded

Although § 87(2)(b) stated that the marijuana on the ground next to him was not his, because § 87(2)(b) was observed with marijuana and his stop is subsumed in his arrest and § 87(2)(b) did not cooperate with the investigation, and PO Dumelle, PO Cornejo and PO Howard all testified that § 87(2)(b) fled the scene upon their arrival, no stop is being pleaded.

Explanation of Subject Officer Identification

§ 87(2)(b) alleged that during the altercation in the holding cell, an unidentified white male officer cursed and threatened him, an officer he could not see kneed him in the face, and officers he could not see put their knees into his back and punched him in the back. None of the officers interviewed, PO Dumelle, PO Cornejo, PO Howard, and Sgt. Scocca (who filed the complaint with IAB) could recall the officers who assisted during the altercation in the holding cell. PO Cornejo corroborated that after PO Dumelle fell on his head on the bench, PO Dumelle was stunned and had to remove himself from the cells and did not witness anything further. § 87(2)(b) provided only a general description of the subject officer he could see, and he could not see the subject of any of the force. § 87(2)(g)

§ 87(2)(b)

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§ 87(2)(b)

Allegation A—Force: En route to and at the 79th Precinct stationhouse, PO Adam Dumelle used physical force against § 87(2)(b)

Allegation B—Force: At the 79th Precinct stationhouse, PO Eduardo Cornejo used physical force against § 87(2)(b)

Allegation C—Force: At the 79th Precinct stationhouse, PO Terrence Howard used physical force against § 87(2)(b)

Allegation D—Discourtesy: At the 79th Precinct stationhouse, an officer spoke rudely to § 87(2)(b)

Allegation E—Abuse of Authority: At the 79th Precinct stationhouse, an officer threatened § 87(2)(b) with the use of force.

Allegation F—Force: At the 79th Precinct stationhouse, officers used physical force against § 87(2)(b)

§ 87(2)(b) denied resisting arrest, and stated that while being handcuffed, he dropped his cell phone and bent to pick it up, but otherwise was compliant with the handcuffing process. He alleged that when he was being transported to the station house, PO Dumelle elbowed and punched § 87(2)(b) on the left side of his face and asked § 87(2)(b) how he liked it. § 87(2)(b)

§ 87(2)(b) stated that at the station house, PO Dumelle pushed § 87(2)(b) into the holding cell, so § 87(2)(b) moved to the side of the cell to avoid further pushes, at which point PO Dumelle punched him on the right side of his face. PO Cornejo, PO Howard and three to four unidentified officers entered the cell as well. PO Cornejo allegedly punched § 87(2)(b) on the right side of his chest and ribs. PO Howard allegedly had the other officers stand up § 87(2)(b) and then punched him in the face, while the officers held him by his arms. § 87(2)(b) stated that it was not until later in the incident that he took a fighting stance in the holding cell. § 87(2)(b) stated that when officers were punching him in the holding cell an unidentified officer then allegedly told him, “If you fuck with us, we’re going to kill you.” § 87(2)(b) stated that he tightened his fists in front of his body, at which point an officer, he did not know which one, kned him in the face, which he believed caused the injury to his orbital bone (encl. 3A-E). In his Notice of Claim, § 87(2)(b) stated that his cheekbone was fractured as a result of police officers punching him in the face during his arrest on Tompkins Avenue. (encl. 2E-F). When Det. Christopher and Det. Tam of IAB interviewed § 87(2)(b) at the hospital, § 87(2)(b) told them that during his transport to the stationhouse, PO Dumelle and PO Cornejo punched him twice and elbowed him in the left side of the face. He also reported that these two officers and another officer beat him in the cell. During this interview, § 87(2)(b) also attributed his fractured orbital to an officer that he could not identify kneeling him in the face (encl. 7S).

PO Dumelle, PO Cornejo, and PO Howard were all consistent that § 87(2)(b) was resistant during the handcuffing process. PO Dumelle and PO Cornejo stated that § 87(2)(b) elbowed PO Dumelle in the face and that all three officers assisted in handcuffing § 87(2)(b). PO Howard stated that PO Dumelle was able to handcuff § 87(2)(b) by himself. All of the officers denied seeing PO Dumelle strike § 87(2)(b) during transport. PO Howard stated that the desk sergeant advised that § 87(2)(b) be escorted straight to the cells due to his combative behavior (encl. 4A-G, 5A-E, and 6A-N).

PO Dumelle and PO Cornejo consistently stated that when PO Dumelle removed § 87(2)(b)'s handcuffs in the holding cell, § 87(2)(b) took a fighting stance. PO Dumelle grabbed § 87(2)(b)'s arms, and in the ensuing struggle, they fell onto a bench, and PO Dumelle and § 87(2)(b) hit their heads. PO Dumelle had to leave the cell to get his bearings after already being struck in his eye and then hitting his head on the bench. PO Dumelle did not hear any officer say, “If you fuck with us, we’re gonna kill you,” or knee § 87(2)(b) in the face. PO Dumelle recalled someone telling him that § 87(2)(b) fractured his orbital bone, but PO Dumelle did not know how he learned that or when it would have happened, nor did he see signs of it (encl. 6A-N). PO Dumelle did note in the OLBS arrest report that physical force was used (encl. 6B). PO Cornejo saw that PO Dumelle had a bruised face. PO Cornejo stated that no officers punched § 87(2)(b) who continued screaming and moving around and possibly struck officers. PO Cornejo did not hear any officers say, “If you fuck with us, we’re gonna kill you,” but stated that, “There was a lot of cursing going on, between § 87(2)(b) and the officers,” although he could not recall any officer who cursed or threatened § 87(2)(b). He later became aware that § 87(2)(b) had sustained a broken orbital bone, but he could not recall how he learned this information or when the injury occurred (encl. 5A-E). PO Howard had been speaking to the desk sergeant, about 20 feet from the cells, when he heard a large commotion, and saw officers rushing toward the cells. He also heard officers calling out for help. By the time PO Howard got to the cells, § 87(2)(b) was restrained, although PO Howard could not recall if he was standing or on the ground. PO Dumelle was holding his head, which prompted PO Howard to believe PO Dumelle was injured. PO Howard denied witnessing the discourteous language, threat, or force. PO Howard did not know how § 87(2)(b) obtained the injury in his arrest photograph (encl. 4A-G).

§ 87(2)(b)'s FDNY Prehospital Care Report Summary indicates that his chief complaint was that officers put their knees into his back. Upon receiving medical treatment at § 87(2)(b) after the incident, § 87(2)(b) reported that while in police custody, he was assaulted by police officers, and struck in the face with punches, elbows and knees, resulting with pain and swelling to the right side of his face. § 87(2)(b) was not found to have any significant injury besides the orbital fracture (see Medical file).

It is undisputed that § 87(2)(b) fractured his right orbital bone as a result of this incident. Upon filing this complaint with IAB, Sgt. Scocca reported that § 87(2)(b) had refused to take his belt off, and assumed a fighting position, prompting PO Dumelle and PO Howard to restrain him. During the struggle, § 87(2)(b) fell face first into a wooden bench. In the original IAB log, Sgt. Scocca reported that when § 87(2)(b) was injured, there were no other witnesses in the cell, and § 87(2)(b) did not make any allegations against the officers. IAB Group 54 conducted a callout investigation of how § 87(2)(b) sustained his injury while in police custody. PO Dumelle, PO Cornejo and PO Howard were all listed as subject officers, but only PO Dumelle was interviewed. The original IAB log indicates that at the scene of the arrest, § 87(2)(b) elbowed PO Dumelle in the face, and also that § 87(2)(b) fell to the ground face first without sustaining any visible injury (encl. 7H). Group 54 closed the investigation with a disposition of unsubstantiated (encl. 7KK).

§ 87(2)(g)

[REDACTED]

Allegation G—Abuse of Authority: At the 79th Precinct stationhouse, PO Terrence Howard strip-searched § 87(2)(b)

§ 87(2)(b) stated that PO Howard told § 87(2)(b) to remove his pants, and when he refused and an altercation occurred, eventually officers allegedly remove his pants and PO Howard, who was wearing gloves, allegedly spread § 87(2)(b)'s buttocks apart (encl. 3A-E).

PO Howard denied strip-searching § 87(2)(b) or seeing any other officer do so (encl. 4A-G). PO Dumelle, who, as noted above, had already left the holding cell by the time the alleged strip search occurred, did not witness one (encl. 6A-N). PO Cornejo denied that § 87(2)(b) was strip searched or had his buttocks spread apart (encl. 5A-E).

The command log does not note that § 87(2)(b) was strip-searched (encl. 8E). § 87(2)(g)

Team: _____

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date